



Document 2005 2262

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Date 5/18/2005 Time 2:50 PM
Rec Amt \$52.00

MICHELLE "MICKI" UTSLER, COUNTY RECORDER
MADISON IOWA

COMPUTER	<input checked="" type="checkbox"/>
RECORDED	<input checked="" type="checkbox"/>
COMPARED	<input checked="" type="checkbox"/>

✓ MCK

_____ State of Iowa _____ Space Above This Line For Recording Data _____

Prepared By: Doug Zeigler
Raccoon Valley Bank
1009 Court
Adel, IA 50003

Return To: Raccoon Valley Bank
1009 Court
Adel, IA 50003

OPEN-END REAL ESTATE MORTGAGE (With Future Advance Clause)

- DATE AND PARTIES.** The date of this Mortgage is 05-18-2005 and the parties and their addresses are as follows:

MORTGAGOR: BENJAMIN M. KELLY AND FRANCES A. KELLY, TENANTS IN COMMON
16719 WATERFORD RD.
WAUKEE, IA 50263-2517

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors. The Addendum is located on _____.

LENDER:
Raccoon Valley Bank
1201 2nd St.
Perry, IA 50220

- MORTGAGE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, warrants, conveys and mortgages to Lender the following described property: (If the legal description of the property is not on page one of this Mortgage, it is located on _____.)
REFER TO EXHIBIT "A" WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.

BMK
dat _____

The property is located in MADISON at 1325 & 1329 HOBBACK ROAD
 (County) EARLHAM, Iowa 50072
 (Address) _____
 (City) _____
 (Zip Code) _____

NOTICE: THIS MORTGAGE SECURES CREDIT IN THE AMOUNT OF \$515,000.00
 LOANS AND ADVANCES UP TO THIS AMOUNT, TOGETHER WITH INTEREST, ARE SENIOR TO
 INDEBTEDNESS TO OTHER CREDITORS UNDER SUBSEQUENTLY RECORDED OR FILED
 MORTGAGES AND LIENS.
3. MAXIMUM OBLIGATION LIMIT. The total principal amount of the Secured Debt (hereafter defined) secured by this Mortgage at any one time shall not exceed the amount stated above. This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.
4. SECURED DEBT DEFINED. The term "Secured Debt" includes, but is not limited to, the following:
 A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt) (e.g., borrower's name, note amount, interest rate, maturity date);
 B. The mortgage is taken as collateral for a promissory note to Kelly Cattle Company dated 5-16-05 in the amount of \$515,000 maturing 1-15-2030.

- B. All future advances from Lender to Mortgagee or other future obligations of Mortgagee to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt and whether or not such future advances or obligations are incurred for any purpose that was related or unrelated to the purpose of the Evidence of Debt.
 C. All obligations Mortgagee owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagee and Lender.
 D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
 E. Mortgagee's performance under the terms of any instrument evidencing a debt by Mortgagee to Lender and any Mortgagee securing, guaranteeing, or otherwise relating to the debt.
 F. More than one person signs this Mortgage as Mortgagee, each Mortgagee agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagee, or any one or more Mortgagee and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.
5. PAYMENTS. Mortgagee agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage.
6. WARRANTY OF TITLE. Mortgagee covenants that Mortgagee is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, warrant, convey, sell, and mortgage the Property and warrants that the Property is unencumbered, except for encumbrances of record.
7. CLAIMS AGAINST TITLE. Mortgagee will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagee to provide to Lender copies of all notices that such amounts are due and the

- receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.
8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
- A. To make all payments when due and to perform or comply with all covenants.
 - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
 - C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.
10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.
11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:
- A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
 - B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
 - C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.
12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent. No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.
13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any

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- D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
- C. The making or furnishing of any verbal or written representation, statement or warranty to or otherwise relating to the Secured Debt;
- B. A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guaranteeing, securing

16. DEFAULT. Mortgagor will be in default if any of the following occur:
A. Any party obligated on the Secured Debt fails to make payment when due;
B. Any party obligated on the Secured Debt fails to make payment when due;
C. The making or furnishing of any verbal or written representation, statement or warranty to or otherwise relating to the Secured Debt;

15. CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
16. **DEFAULT.** Mortgagor will be in default if any of the following occur:
A. Any party obligated on the Secured Debt fails to make payment when due;
B. Any party obligated on the Secured Debt fails to make payment when due;
C. The making or furnishing of any verbal or written representation, statement or warranty to or otherwise relating to the Secured Debt;

obligated under the Leases.
damage that Lender may incur when Lender opts to exercise any of its remedies against any party preser. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or without Lender's prior written consent. Lender does not assume or become liable for the Property's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents surrender of the Property covered by the Leases (unless the Leases so require) without Lender's Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the the Leases, then Lender may, at Lender's option, enforce compliance.
will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor and perform, and require all other parties to the Leases to comply with the Leases and any applicable leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe under the Leases, and the parties subject to the Leases have not violated any applicable law on As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists during any statutory redemption period until the Secured Debts are satisfied.
to third parties on the recording of this Assignment. This Security Instrument will remain effective that this Security Instrument is immediately effective between Mortgagor and Lender and effective as managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as future Leases and any other information with respect to these Leases will be provided immediately true and correct copies. The existing Leases will be provided on execution of the Assignment, and all Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are will also be regarded as a security agreement.

14. ASSIGNMENT OF LEASES AND RENTS. Mortgagor assigns, grants, bargains, warrants, conveys and mortgages to Lender as additional security all the right, title and interest in the following (Property).
A. Existing or future leases, subleases, licenses, guarantees and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

in the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.
Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment. This Security Instrument will remain effective during any statutory redemption period until the Secured Debts are satisfied.
As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.
Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preser. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

- E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
- F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
- G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
- 17. REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default. Upon a default by the Mortgagor, the Lender may take possession of the Property itself or through a court appointed receiver, without regard to the solvency or insolvency of the Mortgagor, the value of the Property, the adequacy of the Lender's security, or the existence of any deficiency judgment, and may operate the Property and collect the rents and apply them to the costs of operating the Property and/or to the unpaid debt.
- At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences of debt, this Mortgage and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
- 18. REDEMPTION.** Mortgagor agrees that in the event of foreclosure of this Mortgage, at the sole discretion of Lender, Lender may elect to reduce or extend the period of redemption for the sale of the Property to a period of time as may then be authorized under the circumstances and under any section of Iowa Code Chapter 628, or any other Iowa Code section, now in effect or as may be in effect at the time of foreclosure.
- 19. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.
- 20. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:
- A. No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
- B. Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
- C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.

made immediately by Mortgage. B.M.K. S.A.K. immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgage shall give to right to hold the policies and renewals. If Lender requires, Mortgage shall immediately give to immediately notify Lender of cancellation or termination of the insurance. Lender shall have the "mortgage clause" and, where applicable, "lender loss payee clause." Mortgage shall All insurance policies and renewals shall be acceptable to Lender and shall include a standard the Property according to the terms of this Mortgage.

described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in appraisal, which shall not be unreasonably withheld. If Mortgage fails to maintain the coverage insurance carrier providing the insurance shall be chosen by Mortgage subject to Lender's pursuant to the preceding two sentences can change during the term of the Secured Debt. The be maintained in the amounts and for the periods that Lender requires. What Lender requires against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall A. Mortgage shall keep the improvements now existing or hereafter built on the Property insured

22. INSURANCE. Mortgage agrees to maintain insurance as follows:

trust, security agreement or other lien document. Mortgage shall be subject to the terms of any prior mortgage, deed of proceeds of any award or claim for damages connected with a condemnation or other taking of all or and to collect and receive all sums resulting from the action or claim. Mortgage assigns to Lender the authorizes Lender to intervene in Mortgage's name in any of the above described actions or claims drainage, or other district relating to or binding upon the Property or any part of it. Mortgage Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, through condemnation, eminent domain, or any other means. Mortgage further agrees to notify, private or public entities to purchase or take any or all of the Property, including any easements, 21. CONDEMNATION. Mortgage will give Lender prompt notice of any action, real or threatened, by and defenses to the contrary are hereby waived.

passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of prejudice to any of Lender's rights under this Mortgage.

Lender with collateral of at least equal value to the Property secured by this Mortgage without Lender's discretion, Lender may release this Mortgage and in return Mortgage will provide and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at harmlessness from and against all losses, claims, demands, liabilities, damages, cleanup, response section, (1) Mortgage will indemnify and hold Lender and Lender's successors or assigns K. As a consequence of any breach of any representation, warranty or promise made in this this section at Mortgage's expense.

J. Lender has the right, but not the obligation, to perform any of Mortgage's obligations under perform such audit is subject to Lender's approval. I. Upon Lender's request and at any time, Mortgage agrees, at Mortgage's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will compliance with applicable Environmental Law.

H. Mortgage will permit, or cause any tenant to permit, Lender or Lender's agent to enter and Environmental Law are obtained and complied with. G. Mortgage will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable F. There are no underground storage tanks, private dumps or open wells located on or under the applicable Environmental Law.

E. Mortgage and every tenant have been, are and shall remain in full compliance with any proceedings. D. Mortgage has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgage or any tenant of any has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such

Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
- C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.
- 23. NO ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
- 24. FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.
- 25. JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender. If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guarantied, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.
- 26. APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.
- 27. NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
- 28. WAIVERS.** Except to the extent prohibited by law, Mortgagor waives any rights relating to reinstatement, the marshalling of liens and assets, all rights of dower and distributive share and all homestead exemption rights relating to the Property.
- 29. U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Mortgage:
- Construction Loan.** This Mortgage secures an obligation incurred for the construction of an improvement on the Property.
 - Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

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(page 7 of 9)

Refer to the Addendum which is attached and incorporated herein for additional Mortgages, signatures and acknowledgments.

 (Signature) FRANCES A. KELLY (Date) 5-16-05
 (Date) _____ (Signature) _____

 (Signature) BENJAMIN M. KELLY (Date) 5-16-05
 (Date) _____ (Signature) _____

 Entry Name: _____
 Entry Name: _____

Actual authority was granted to the parties signing below by resolution signed and dated _____ and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage

Separate Assignment. The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.

Agricultural Property. Mortgagor covenants and warrants that the Property will be used principally for agricultural or farming purposes and that Mortgagor is an individual or entity allowed to own agricultural land as specified by law.

Line of Credit. The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Mortgage will remain in effect until released.

Purchase Money Mortgage. This is a purchase money mortgage as defined by Iowa law.

30. OTHER TERMS. If checked, the following are applicable to this Mortgage:

Filing As Financing Statement. Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.

Personal Property. Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.

Crops; Timber; Minerals; Rents, Issues and Profits. Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").

ACKNOWLEDGMENT:

STATE OF IOWA, COUNTY OF DALLAS } ss.

On this 16TH day of MAY, 2005 before me, a Notary Public in the

(Individual)

state of Iowa, personally appeared BENJAMIN M. KELLY; FRANCES A. KELLY, TENANTS IN COMMON

to me known to be the person(s) named in and who executed the foregoing instrument, and

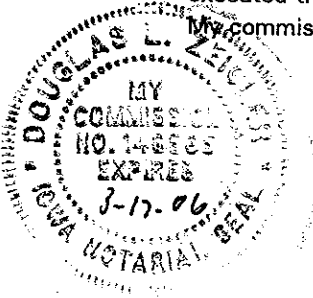
acknowledged that they executed the same as their voluntary act and deed.

My commission expires: 03-17-2008

Douglas L. Zeigler

(Notary Public)

DOUGLAS L ZEIGLER



STATE OF _____, COUNTY OF _____ } ss.

On this _____ day of _____ before me, a Notary Public in the

state of Iowa, personally appeared BENJAMIN M. KELLY; FRANCES A. KELLY

to me personally known, who being by me duly sworn or affirmed did say that that person is

(Business or Entity Acknowledgment)

_____ of said entity, that (the seal affixed to said instrument is the seal of said entity or no seal has been procured by said entity) and that said instrument was signed and sealed, if applicable, on behalf of the said entity by authority of its board of directors/partners/members and the said

_____ acknowledged the execution of said instrument to be the voluntary act and deed of said entity by it voluntarily executed.

My commission expires:

(Notary Public)

(In the following statement "I" means the Mortgagor.) I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I voluntarily give up my rights to this protection for this property with respect to claims based upon this contract.

Benjamin M Kelly 5-16-05 *Frances A Kelly* 5-16-05
(Signature) BENJAMIN M. KELLY (Date) (Signature) FRANCES A. KELLY (Date)

EXHIBIT "A"



THE NE QUARTER (1/4) OF SEC. TWENTY-TWO (22) & THE WEST HALF (1/2) OF THE NW QUARTER (1/4) OF SEC. TWENTY-THREE (23) & PARCEL "A" LOCATED IN THE NW QUARTER (1/4) OF THE SW QUARTER (1/4) OF SECTION TWENTY-THREE (23) CONTAINING 4.986 ACRES, AS SHOWN IN AMENDED PLAT OF SURVEY FILED IN BK 2003, PG 5596 ON SEPTEMBER 18, 03, IN THE OFFICE OF THE RECORDER OF MADISON CO., IA, ALL IN TOWNSHIP SEVENTY-SEVEN (77) NORTH, RANGE TWENTY-EIGHT (28) WEST OF THE 5TH P.M., MADISON CO., IA.